

INTERNAL REVENUE SERVICE
District Director

McCaslin Industrial Park
2 Cupania Circle
Monterey Park, CA 91755-7406

DEPARTMENT OF THE TREASURY

Date: **DEC 18 1996**

Employer Identification Number:

Case Number:

Contact Person:

Contact Telephone Number:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code. Based on the information submitted, we have concluded that you do not qualify for exemption under that section.

FACTS:

The information submitted discloses that you were incorporated under the corporation laws of [REDACTED]. Your Articles of Incorporation state, in pertinent part, that "the purpose for which said association is organized is to provide a place to be used in the social, recreational, and educational improvement and betterment of its members, its families and community,"

Your application Form 1024 states that you operate an 18 hole golf course for the residents of [REDACTED] and other counties in the vicinity. In addition to running the golf course, your operations include restaurant and bar operations ("currently leased to outside operators") and the provision of a resident golf professional who operates a private golf shop. Per your amended Bylaws, you are a membership organization with two membership classes: regular and business. Membership dues are charged. Your application Form 1024 indicates that nonmembers are permitted to use the golf course. Your income for the years 1990 through 1995 is from dues and assessments, cart storage rents, green fees, student fees, clubhouse/cart trail/course use fees, restaurant and bar receipts, interest, rents, donations, and miscellaneous other receipts. For the years 1990 through 1995, it appears that the percentages of gross receipts from nonmembers is as follows: 1990 - [REDACTED], 1991 - [REDACTED], 1992 - [REDACTED], 1993 - [REDACTED], 1994 - [REDACTED], and 1995 - [REDACTED].

LAW:

Section 501(c)(7) of the Internal Revenue Code exempts from Federal income tax clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]					
Date	[REDACTED]	[REDACTED]					

of which inures to the benefit of any private shareholder. In general, exemption from Federal income tax under this section encompasses social and recreational clubs which are supported by membership fees, dues and assessments. See section 1.501(c)(7)-1(a) of the Income Tax Regulations. Section 1.501(c)(7)-1(b) of the regulations provides, in part, that a club which engages in business, such as making its social and recreational facilities available to the general public, is not organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, and is not exempt from Federal income tax under section 501(a) of the Code. Public Law 94-568, 94th Congress, H.R. 1144, October 1976 provides that a social club is permitted to receive up to 35 percent of gross receipts, including investment income, from sources outside their members. Within this 35 percent, not more than 15 percent of gross receipts can be derived from nonmember use of the club's facilities. In Revenue Ruling 69-219, a social club that regularly held its golf course open to the general public was denied exemption under section 501(c)(7) of the Code. In Revenue Ruling 69-219, the principal function of the social club was to operate a golf course for its members. The members paid annual dues. However, the club regularly held the golf course open to the general public upon the payment of green fees. The income from the green fees was used by the social club to maintain the golf course. In its denial of exemption, Revenue Ruling 69-219 states as follows: "Based on the facts presented, this golf club does not qualify for exemption from Federal income tax under section 501(c)(7) of the Code since (1) it is engaged in business with the general public by regularly holding its golf course open to the public for use upon payment of established green fees, and (2) the income from this source is inuring to the benefit of the members because it is used for maintenance and improvement of club facilities."

ANALYSIS:

Our analysis of your case indicates that you were formed for social and recreational purposes. You operate a golf course for your members that is also open to the public. For EACH year during the period 1990-1995 inclusive, you received more than 15 percent of your income from nonmember use of your facilities. You are similar to the organization described in Revenue Ruling 69-219. Therefore, you do not qualify for exemption as an organization described in section 501(c)(7) of the Code.

CONCLUSION:

We have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(7) of the Internal Revenue Code. Accordingly, you are required to file income tax returns on Form 1120 annually with your District Director.

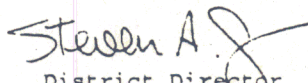
If you are in agreement with this determination, we request that you sign and return the enclosed agreement Form 6018. Please note the instructions for signing on the reverse side of this form.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to

support your position as explained in the enclosed Publication 892. You will then be contacted to arrange for a hearing. The hearing may be held at the office of Regional Director of Appeals, or if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies and will then become our final determination. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,


District Director

Enclosure:
Form 6018
Publication 892

Form 6018
(Rev. August 1983)

Department of the Treasury-Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare in
Duplicate

Case Number [REDACTED]	Date of Latest Determination Letter
Employer Identification Number [REDACTED]	Date of Proposed Adverse Action Letter
Name and Address of Organization [REDACTED] [REDACTED] [REDACTED]	

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- ☒ Denial of exemption IRC 501(c)(7)
- ☐ Revocation of exemption, effective
- ☐ Modification of exempt status from section 501(c)() to 501(c)(), effective
- ☐ Classification as a private foundation (section 509(a)), effective
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective
- ☐ Classification as an organization described in section 509(a)(), effective
- ☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization	
Signature and Title	Date
Signature and Title	Date